

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**KEVEN D. BROCKBANK, M.D.**

Holder of License No. 29044  
For the Practice of Medicine  
In the State of Arizona.

Case No. MD-02-0588

**CONSENT AGREEMENT FOR  
PROBATION**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Kevin Brockbank, M.D. ("Respondent"), the parties agreed to the following disposition of this matter at the Board's public meeting on May 14, 2003.

1. Respondent acknowledges that he has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order. Respondent acknowledges that he understands he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement for the issuance of the foregoing Order, he voluntarily relinquishes any rights to a hearing or judicial review in State or federal court on the matters alleged, or to challenge this Consent Agreement and the Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

3. Respondent acknowledges and understands that this Consent Agreement and the Order is not effective until approved by the Board and signed by its Executive Director.


4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended

1 or made for any other use, such as in the context of another state or federal government  
2 regulatory agency proceeding, civil or criminal court proceeding, in this State or any other  
3 state or federal court.

4 5. Respondent acknowledges and agrees that, although the Consent  
5 Agreement has not yet been accepted by the Board and issued by the Executive Director,  
6 Respondent may not revoke his acceptance of the Consent Agreement and Order.  
7 Respondent may not make any modifications to the document. Any modifications to this  
8 original document are ineffective and void unless mutually approved by the parties.

9 6. Respondent further understands that this Consent Agreement and Order,  
10 once approved and signed, is a public record that may be publicly disseminated as a  
11 formal action of the Board.

12 7. If any part of the Consent Agreement and Order is later declared void or  
13 otherwise unenforceable, the remainder of the Order in its entirety shall remain in force  
14 and effect.

15   
16 Keven Brockbank, M.D.

## FINDINGS OF FACT

1  
2 1. The Board is the duly constituted authority for the regulation and control of  
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of License No. 29044 for the practice of allopathic  
5 medicine in the State of Arizona.

6 3. The Board initiated case number MD-02-0588 on September 3, 2002 after  
7 receiving a report from a medical center ("Center") regarding Respondent's possible  
8 substance abuse.

9 4. On September 16, 2002, Respondent was informed of the complaint and  
10 asked to file a written response. Shortly thereafter the Respondent addressed the  
11 allegations and informed the Board that he had entered the Betty Ford Center ("Betty  
12 Ford") on his own accord and at his own expense on September 8, 2002. Respondent  
13 also informed the Board that he intended to do whatever was necessary to safely practice  
14 medicine.

15 5. On December 16, 2002 the Board was notified that Respondent had  
16 successfully completed the Betty Ford program. The notification also contained Betty  
17 Ford's recommendations regarding Respondent's continued treatment, including a  
18 recommendation that Respondent take Naltrexone as indicated by the Board. In January  
19 2003, Board Staff and the Board contracted addiction medicine specialist ("Specialist") met  
20 with Respondent to discuss his participation in the Board's Monitored Aftercare Program  
21 ("MAP") while the underlying investigation into his conduct as reported by Center was  
22 investigated. Respondent agreed to participate in MAP while the investigation was  
23 pending to ensure that he would be monitored during that time. Respondent has been  
24 fully compliant with the terms of MAP.  
25

1           6.     The underlying investigation into the report filed by Center has been  
2 complete and Respondent has agreed to enter a consent agreement for Probation.

3                               **CONCLUSIONS OF LAW**

4           1.     The Arizona Medical Board possesses jurisdiction over the subject matter  
5 hereof and over Respondent.

6           2.     The Board has received substantial evidence supporting the Findings of Fact  
7 described above and said findings constitute unprofessional conduct or other grounds for  
8 the Board to take disciplinary action.

9           3.     The conduct and circumstances above in paragraphs 3 and 4 constitute  
10 unprofessional conduct pursuant to A.R.S. § 32-1401(24)(f) ("[h]abitual intemperance in  
11 the use of alcohol or habitual substance abuse.")

12                               **ORDER**

13           Based upon the foregoing Findings of Fact and Conclusions of Law,

14           IT IS HEREBY ORDERED that:

15           1.     Respondent placed on Probation for five years with the following terms and  
16 conditions:

17               a.     Respondent shall take Naltrexone as recommended by the Medical  
18 Director of the Board's Monitored Aftercare Program and as prescribed by his primary care  
19 physician. Within one year of the effective date of this Order Respondent may request  
20 that the Executive Director amend this Order to remove this term of probation.

21               b.     Respondent shall participate in the Board's Monitored Aftercare  
22 Program pursuant to the following:

23                               **I. Definitions**

24           1.     **"Medication"** means "prescription-only drug, controlled substance, and over-  
25 the counter preparation, other than plain aspirin and plain acetaminophen."

2. **"Emergency"** means "a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life."

## II. Terms

1. **Participation.** Respondent shall promptly enroll in and participate in the Board's substance abuse treatment and rehabilitation program ("MAP"). As part of participation in MAP, Respondent shall cooperate with the Board Staff and contracting MAP supervisors.

2. Respondent's participation in MAP may be unilaterally terminated at the discretion of the Board at any time after issuance of this Order, with or without cause for termination.

3. If the Board (or its Executive Director) concludes that it is appropriate, this matter may be referred for further proceedings or investigation to the extent authorized by law to consider all relevant issues of Respondent's professional conduct and ability to safely and ethically engage in the practice of medicine.

4. Respondent's participation in MAP will terminate at the end of five (5) years unless the Board terminates this Order prior to the end of the 5 year period or extends the time period.

5. **Group Therapy.** Respondent shall attend MAP group therapy sessions one time per week for the duration of this Order, unless excused by the group therapist for good cause such as illness or vacation. Respondent shall instruct the MAP group therapist to release to the Board, upon its request, all records relating to Respondent's treatment, and to submit monthly reports to the Board regarding attendance and progress. The reports shall be submitted on or before the 10th day of each month.

6. **Board-Approved Primary Care Physician.** Respondent shall promptly obtain a primary care physician and shall submit the name of the primary care physician to Board Staff in writing for approval.

1        7. The Board-approved primary care physician ("PCP") shall be in charge of  
2 providing and coordinating Respondent's medical care and treatment. Except in an  
3 **Emergency**, Respondent shall obtain Respondent's medical care and treatment only from  
4 the PCP and from health care providers to whom the PCP refers Respondent.  
5 Respondent shall request that the PCP document all referrals in the medical record.

6        8. Respondent shall promptly inform the PCP of Respondent's rehabilitation  
7 efforts and provide a copy of this Order to the PCP. Respondent shall also inform all other  
8 health care providers who provide medical care or treatment to Respondent that  
9 Respondent is participating in MAP.

10        9. **Medication.** Except in an **Emergency**, Respondent shall take only  
11 **Medication** prescribed by the PCP or other health care provider to whom the PCP refers  
12 Respondent. Respondent shall not self-prescribe any **Medication**.

13        10. If a controlled substance is prescribed, dispensed, or administered to  
14 Respondent by any person other than the PCP, Respondent shall notify the PCP in writing  
15 within 48 hours. The notification shall contain all information required for the medication  
16 log entry specified in paragraph 11. Respondent shall request that the notification be  
17 made a part of the medical record. This paragraph does not authorize Respondent to take  
18 any **Medication** other than in accordance with paragraph 9.

19        11. **Medication Log.** Respondent shall maintain a current legible log of all  
20 **Medication** taken by or administered to Respondent, and shall make the log available to  
21 the Board and its Staff upon request. For **Medication** (other than controlled substances)  
22 taken on an on-going basis, Respondent may comply with this paragraph by logging the  
23 first and last administration of the **Medication** and all changes in dosage or frequency.  
24 The log, at a minimum, shall include the following:

- 25        a. Name and dosage of **Medication** taken or administered;
- b. Date taken or administered;
- c. Name of prescribing or administering Physician;

1 d. Reason **Medication** was prescribed or administered.

2 This paragraph does not authorize Respondent to take any **Medication** other than in  
3 accordance with paragraph 9.

4 12. **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or  
5 any food or other substance containing poppy seeds or alcohol.

6 13. **Biological Fluid Collection.** During all times that Respondent is physically  
7 present in the State and such other times as Board Staff may direct, Respondent shall  
8 promptly comply with requests from Board Staff, the group therapist, or the MAP director  
9 to submit to witnessed biological fluid collection. If Respondent is directed to contact an  
10 automated telephone message system to determine when to provide a specimen,  
11 Respondent shall do so within the hours specified by Board Staff. For the purposes of this  
12 paragraph, in the case of an in-person request, "promptly comply" means "immediately".  
13 In the case of a telephonic request, "promptly comply" means that, except for good cause  
14 shown, Respondent shall appear and submit to specimen collection not later than two  
15 hours after telephonic notice to appear is given. The Board in its sole discretion shall  
16 determine good cause.

17 14. Respondent shall provide Board Staff in writing with one telephone number  
18 that may be used to contact Respondent on a 24 hour per day/seven day per week basis  
19 to submit to biological fluid collection. For the purposes of this section, telephonic notice  
20 shall be deemed given at the time a message to appear is left at the contact telephone  
21 number provided by Respondent. Respondent authorizes any person or organization  
22 conducting tests on the collected samples to provide testing results to the Board and the  
23 MAP Director.

24 15. Respondent shall cooperate with collection site personnel regarding  
25 biological fluid collection. Repeated complaints from collection site personnel regarding  
Respondent's lack of cooperation regarding collection may be grounds for termination from  
MAP.

1       **16.   Payment for Services.** Respondent shall pay for all costs, including  
2 personnel and contractor costs, associated with participating in MAP at time service  
3 is rendered, or within 30 days of each invoice sent to Respondent.

4       **17.   Examination.** Respondent shall submit to mental, physical, and medical  
5 competency examinations at such times and under such conditions as directed by the  
6 Board to assist the Board in monitoring Respondent's ability to safely engage in the  
7 practice of medicine and compliance with the terms of this Order.

8       **18.   Treatment.** Respondent shall submit to all medical, substance abuse, and  
9 mental health care and treatment ordered by the Board, or recommended by the MAP  
10 director.

11       **19.   Obey All Laws.** Respondent shall obey all federal, state and local laws, and  
12 all rules governing the practice of medicine in the State of Arizona.

13       **20.   Interviews.** Respondent shall appear in person before the Board and its  
14 Staff and committees for interviews upon request, upon reasonable notice.

15       **21.   Address and Phone Changes, Notice.** Respondent shall immediately  
16 notify the Board in writing of any change in office or home addresses and telephone  
17 numbers. Respondent shall provide Board staff at least three business days advance  
18 written notice of any plans to be away from office or home for more than five (5)  
19 consecutive days. The notice shall state the reason for the intended absence from home  
20 or office, and shall provide a telephone number that may be used to contact Respondent.

21       **22.   Relapse, Violation.** In the event of chemical dependency relapse by  
22 Respondent or use of drugs or alcohol by Respondent in violation of this Order,  
23 Respondent shall promptly enter into a Interim Consent Agreement that requires, among  
24 other things, that Respondent not practice medicine until such time as Respondent  
25 successfully completes an inpatient or residential treatment program for chemical  
dependency designated by the Board or staff and obtains the affirmative approval of the  
Board to return to the practice of medicine. Prior to approving Respondent's request to



1 return to the practice of medicine, the Board may require Respondent to submit to  
2 witnessed biological fluid collection, undergo any combination of a physical examination,  
3 psychiatric or psychological evaluation and/or to successfully pass the special purpose  
4 licensing examination or the Board may conduct interviews for the purposes of assisting it  
5 in determining the ability of Respondent to safely return to the practice of medicine. In no  
6 respect shall the terms of this paragraph restrict the Board's authority to initiate and take  
7 disciplinary action for violation of this Order.

8       **23.    Notice Requirements.**

9           (a) Respondent shall immediately provide a copy of this Order to all  
10 employers and hospitals and free standing surgery centers at which Respondent currently  
11 has privileges. Within 30 days of the effective date of this Order, Respondent shall  
12 provide the Board with a signed statement that Respondent has complied with this  
13 notification requirement. Upon any change in employer or upon the granting of privileges  
14 at additional hospitals or free standing surgery centers, Respondent shall provide the  
15 employer, hospital or free standing surgery center with a copy of this Order. Within 30  
16 days of a change in employer or upon the granting of privileges at additional hospitals or  
17 free standing surgery centers, Order shall provide the Board with a signed statement that  
18 Order has complied with this notification requirement.

19           (b) Respondent is further required to notify, in writing, all employers,  
20 hospitals and free standing surgery centers at which Respondent currently has, or in the  
21 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
22 alcohol in violation of this Order and/or entry into a treatment program. Respondent shall  
23 provide the Board with written confirmation of compliance with this notification requirement  
24 within 7 days of any of these events.

25           (c) Respondent shall immediately submit to the Board, under penalty of  
perjury, on a form provided by the Board, the name(s) and address(es) of all employers

1 and all hospitals and free-standing surgery centers at which Respondent currently holds  
2 privileges to practice. Respondent is further required to, under penalty of perjury, on a  
3 form provided by the Board, immediately notify the Board of any changes in his  
4 employment and of any hospitals and freestanding surgery centers at which Respondent  
5 gains privileges after the effective date of this Order.

6       **24. Public Record.** This Order is a public record and, will be disclosed to the  
7 extent required by law.

8       **25. Out-of State.** In the event Respondent resides or practices medicine in a  
9 state other than Arizona, Respondent shall participate in the physician rehabilitation  
10 program sponsored by that state's medical licensing authority or medical society.  
11 Respondent shall cause the other state's program to provide written reports to the Board  
12 regarding Respondent's attendance, participation, and monitoring. The reports shall be  
13 due on or before the 15th day of March and September of each year, until the Board  
terminates this requirement in writing.

14       **26. Quarterly Declarations** Respondent shall submit quarterly declarations  
15 under penalty of perjury on forms provided by the Board, stating whether there has been  
16 compliance with all conditions of probation. The declarations shall be submitted on or  
17 before the 15th of March, June, September and December of each year, beginning on or  
18 before September 15, 2003.

19       This Order is the final disposition of case number MD-02-0588.  
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1 DATED this 14<sup>th</sup> day of May, 2003.



ARIZONA MEDICAL BOARD

7 By *Barry A. Cassidy*  
8 BARRY A. CASSIDY, Ph.D., PA-C  
9 Executive Director

10 ORIGINAL of the foregoing filed this  
11 14<sup>th</sup> day of MAY, 2003 with:

12 The Arizona Medical Board  
13 9545 East Doubletree Ranch Road  
14 Scottsdale, Arizona 85258

15 Executed copy of the foregoing  
16 mailed by U.S. Certified Mail this  
17 14<sup>th</sup> day of MAY, 2003, to:

18 Keven D. Brockbank, M.D.  
19 5448 Highway 260 Suite 220  
20 Lakeside, Arizona 85929-5187

21 Copy of the foregoing hand-delivered this  
22 14<sup>th</sup> day of MAY, 2003, to:

23 Christine Cassetta  
24 Assistant Attorney General  
25 Sandra Waitt, Management Analyst  
Compliance  
Investigations  
Arizona Medical Board  
9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

*Brenda A. Lohr*